

Introduced by Senator WigginsFebruary 22, 2008

An act to amend Sections 27 and 101 of, to add Chapter 8 (commencing with Section 6800) to Division 3 of, and to repeal Sections 6810 and 6816 of, the Business and Professions Code, and to repeal Division 5 (commencing with Section 6800) of the Harbors and Navigation Code, relating to pilot commissioners, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 1627, as introduced, Wiggins. Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, Suisun, and Monterey.

Existing law provides for the regulation and licensing of pilots for the Bays of San Francisco, San Pablo, Suisun, and Monterey by the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, and Suisun. Under existing law, the board consists of 7 members who are appointed by the Governor, with the consent of the Senate. Existing law requires the board to appoint and license the number of pilots needed to carry out these provisions and requires the board to consider various factors in making this determination. Existing law specifies that the board has the sole authority to determine the qualifications and requirements for obtaining a pilot license, and it also authorizes the board to suspend or revoke licenses for misconduct, and it specifies procedures for such action. Existing law establishes various rights and duties of these pilots. Existing law also prescribes pilotage rates for vessels and requires vessels spoken inward or outward bound to pay a specified rate of bar pilotage through the Golden Gate and into or out of the Bays of San Francisco, San Pablo, and Suisun and vessels navigating the waters of Monterey Bay are also required to pay a

specified rate. Under existing law, there is a San Francisco Bar Pilot pension plan, and existing law specifies benefits, administration, eligibility, financing, and other matters relating to the operation of the plan. Existing law also imposes various surcharges for, among other things, pilot trainee training, pilot training, and board operations.

This bill would revise and recast those provisions by making the board a part of the Department of Consumer Affairs, to be renamed the Board of Pilot Commissioners for the Bays of San Francisco, San Pablo, Suisun, and Monterey. The bill would authorize the board to appoint an executive officer. The bill would make the board and executive officer provisions inoperative on July 1, 2011, and repealed on January 1, 2012. The bill would create the Board of Pilot Commissioners' Special Fund, which would be continuously appropriated for the purposes of administering these provisions, and would require all specified money received by the board to be deposited in the fund. The bill would also create the Pilot Trainee Fund and the Pilot and Inland Pilot Continuing Education Fund, which would be continuously appropriated, and would direct the money collected from the pilot trainee surcharge and the pilot and inland pilot continuing education surcharge to be deposited in these respective funds to be used only for funding pilot trainee training and pilot and inland pilot continuing education. The bill would require the board to report annually, by October 1, to the Legislature certain statistical information relating to incidents and reports against licensees and to submit various specified financial reports to the Department of Finance and the appropriate budget committees of the Legislature by certain dates. The bill would require the Department of Finance to complete specified audits of the board by October 1, 2009, and January 1, 2010, respectively, and to provide copies of these audits to the board and the Legislature and to make these audits available to the public.

Vote: majority. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 27 of the Business and Professions Code
- 2 is amended to read:
- 3 27. (a) Every entity specified in subdivision (b), on or after
- 4 July 1, 2001, shall provide on the Internet information regarding
- 5 the status of every license issued by that entity in accordance with

1 the California Public Records Act (Chapter 3.5 (commencing with
2 Section 6250) of Division 7 of Title 1 of the Government Code)
3 and the Information Practices Act of 1977 (Chapter 1 (commencing
4 with Section 1798) of Title 1.8 of Part 4 of Division 3 of the Civil
5 Code). The public information to be provided on the Internet shall
6 include information on suspensions and revocations of licenses
7 issued by the entity and other related enforcement action taken by
8 the entity relative to persons, businesses, or facilities subject to
9 licensure or regulation by the entity. In providing information on
10 the Internet, each entity shall comply with the Department of
11 Consumer Affairs Guidelines for Access to Public Records. The
12 information may not include personal information, including home
13 telephone number, date of birth, or social security number. Each
14 entity shall disclose a licensee's address of record. However, each
15 entity shall allow a licensee to provide a post office box number
16 or other alternate address, instead of his or her home address, as
17 the address of record. This section shall not preclude an entity
18 from also requiring a licensee, who has provided a post office box
19 number or other alternative mailing address as his or her address
20 of record, to provide a physical business address or residence
21 address only for the entity's internal administrative use and not
22 for disclosure as the licensee's address of record or disclosure on
23 the Internet.

24 (b) Each of the following entities within the Department of
25 Consumer Affairs shall comply with the requirements of this
26 section:

27 (1) The Acupuncture Board shall disclose information on its
28 licensees.

29 (2) The Board of Behavioral Sciences shall disclose information
30 on its licensees, including marriage and family therapists, licensed
31 clinical social workers, and licensed educational psychologists.

32 (3) The Dental Board of California shall disclose information
33 on its licensees.

34 (4) The State Board of Optometry shall disclose information
35 regarding certificates of registration to practice optometry,
36 statements of licensure, optometric corporation registrations, branch
37 office licenses, and fictitious name permits of their licensees.

38 (5) The Board for Professional Engineers and Land Surveyors
39 shall disclose information on its registrants and licensees.

1 (6) The Structural Pest Control Board shall disclose information
2 on its licensees, including applicators, field representatives, and
3 operators in the areas of fumigation, general pest and wood
4 destroying pests and organisms, and wood roof cleaning and
5 treatment.

6 (7) The Bureau of Automotive Repair shall disclose information
7 on its licensees, including auto repair dealers, smog stations, lamp
8 and brake stations, smog check technicians, and smog inspection
9 certification stations.

10 (8) The Bureau of Electronic and Appliance Repair shall disclose
11 information on its licensees, including major appliance repair
12 dealers, combination dealers (electronic and appliance), electronic
13 repair dealers, service contract sellers, and service contract
14 administrators.

15 (9) The Cemetery ~~Program~~ and Funeral Bureau shall disclose
16 information on its licensees, including cemetery brokers, cemetery
17 salespersons, crematories, and cremated remains disposers.

18 (10) The Cemetery and Funeral ~~Directors and Embalmers~~
19 ~~Program~~ Bureau shall disclose information on its licensees,
20 including embalmers, funeral establishments, and funeral directors.

21 (11) The Contractors' State License Board shall disclose
22 information on its licensees in accordance with Chapter 9
23 (commencing with Section 7000) of Division 3. In addition to
24 information related to licenses as specified in subdivision (a), the
25 board shall also disclose information provided to the board by the
26 Labor Commissioner pursuant to Section 98.9 of the Labor Code.

27 (12) The Board of Psychology shall disclose information on its
28 licensees, including psychologists, psychological assistants, and
29 registered psychologists.

30 (13) *The Board of Pilot Commissioners for the Bays of San*
31 *Francisco, San Pablo, Suisun, and Monterey shall disclose*
32 *information on its licensees.*

33 (c) "Internet" for the purposes of this section has the meaning
34 set forth in paragraph (6) of subdivision (e) of Section 17538.

35 SEC. 2. Section 101 of the Business and Professions Code is
36 amended to read:

37 101. The department is comprised of:

- 38 (a) The Dental Board of California.
39 (b) The Medical Board of California.
40 (c) The State Board of Optometry.

- 1 (d) The California State Board of Pharmacy.
- 2 (e) The Veterinary Medical Board.
- 3 (f) The California Board of Accountancy.
- 4 (g) The California Architects Board.
- 5 (h) The Bureau of Barbering and Cosmetology.
- 6 (i) The Board for Professional Engineers and Land Surveyors.
- 7 (j) The Contractors' State License Board.
- 8 (k) The Bureau for Private Postsecondary and Vocational
- 9 Education.
- 10 (l) The Structural Pest Control Board.
- 11 (m) The Bureau of Home Furnishings and Thermal Insulation.
- 12 (n) The Board of Registered Nursing.
- 13 (o) The Board of Behavioral Sciences.
- 14 (p) The State Athletic Commission.
- 15 (q) The Cemetery and Funeral Bureau.
- 16 (r) The State Board of Guide Dogs for the Blind.
- 17 (s) The Bureau of Security and Investigative Services.
- 18 (t) The Court Reporters Board of California.
- 19 (u) The Board of Vocational Nursing and Psychiatric
- 20 Technicians.
- 21 (v) The Landscape Architects Technical Committee.
- 22 (w) The Bureau of Electronic and Appliance Repair.
- 23 (x) The Division of Investigation.
- 24 (y) The Bureau of Automotive Repair.
- 25 (z) The State Board of Registration for Geologists and
- 26 Geophysicists.
- 27 (aa) The Respiratory Care Board of California.
- 28 (ab) The Acupuncture Board.
- 29 (ac) The Board of Psychology.
- 30 (ad) The California Board of Podiatric Medicine.
- 31 (ae) The Physical Therapy Board of California.
- 32 (af) The Arbitration Review Program.
- 33 (ag) The Committee on Dental Auxiliaries.
- 34 (ah) The Hearing Aid Dispensers Bureau.
- 35 (ai) The Physician Assistant Committee.
- 36 (aj) The Speech-Language Pathology and Audiology Board.
- 37 (ak) The California Board of Occupational Therapy.
- 38 (al) The Osteopathic Medical Board of California.
- 39 (am) The Bureau of Naturopathic Medicine.

1 (an) The Board of Pilot Commissioners for the Bays of San
2 Francisco, San Pablo, Suisun, and Monterey.

3 ~~(an)~~

4 (ao) Any other boards, offices, or officers subject to its
5 jurisdiction by law.

6 SEC. 3. Chapter 8 (commencing with Section 6800) is added
7 to Division 3 of the Business and Professions Code, to read:

8

9 CHAPTER 8. PILOTS FOR THE BAYS OF SAN FRANCISCO, SAN
10 PABLO, SUISUN, AND MONTEREY

11

12 Article 1. General Provisions and Application

13

14 6800. The Legislature finds and declares that it is the policy
15 of the state to ensure the safety of persons, vessels, and property
16 using Monterey Bay and the Bays of San Francisco, San Pablo,
17 and Suisun, and the tributaries thereof, and to avoid damage to
18 those waters and surrounding ecosystems as a result of vessel
19 collision or damage, by providing competent, efficient, and
20 regulated pilotage for vessels required by this chapter to secure
21 pilotage services.

22 6801. The Legislature further finds and declares all of the
23 following:

24 (a) The maritime industry is necessary for the continued
25 economic well-being and cultural development of all California
26 citizens.

27 (b) The Bays of San Francisco, San Pablo, and Suisun provide
28 a vital transportation route for the maritime industry.

29 (c) The increase in vessel size and traffic and the increase in
30 cargoes carried in bulk, particularly oil and gas and hazardous
31 chemicals, create substantial hazards to the life, property, and
32 values associated with the environment of those waters.

33 (d) The federal government has long adopted the policy of
34 providing minimum standards that ensure port and waterway safety
35 while encouraging state control over pilot qualifications and
36 licensing.

37 (e) A program of pilot regulation and licensing is necessary in
38 order to ascertain and guarantee the qualifications, fitness, and
39 reliability of qualified personnel who can provide safe pilotage of

1 vessels entering and using Monterey Bay and the Bays of San
2 Francisco, San Pablo, and Suisun.

3 (f) The need to ensure safe and pollution-free waterborne
4 commerce requires that pilotage services be employed in the
5 confined, crowded, and environmentally sensitive waters of those
6 bays.

7 (g) Bar pilotage in the Bays of San Francisco, San Pablo, and
8 Suisun has continuously been regulated by a single-purpose state
9 board since 1850, and that regulation and licensing should be
10 continued.

11 (h) The individual physical safety and well-being of pilots is of
12 vital importance in providing required pilot services.

13 6802. This chapter applies to pilots for San Francisco, San
14 Pablo, Suisun, and Monterey Bays.

15 6803. No fine or other penalty authorized by the provisions of
16 this chapter nor any revocation or suspension of a pilot license or
17 commission may be imposed by the board without a full and open
18 prior public hearing on the matter, except as provided in this code.

19 6804. If any provision of this chapter or the application thereof
20 to any person or circumstance is held invalid, the validity of the
21 remainder of the provisions of this chapter and their application
22 to other persons or circumstances shall not be affected.

23 6805. For the purposes of this chapter, the following definitions
24 shall apply:

25 (a) “Bays of San Francisco, San Pablo, and Suisun” means all
26 the waters of those bays and of the tributaries, ports, and harbors
27 of those bays, and includes the water areas from the south end of
28 San Francisco Bay and from the Ports of Sacramento and Stockton
29 to the Golden Gate Bridge. “Bay of San Francisco, San Pablo, or
30 Suisun” means any of those waters, respectively.

31 (b) “Monterey Bay” means all the waters of that bay and of the
32 tributaries, ports, and harbors of that bay.

33 (c) “Board” means the Board of Pilot Commissioners for the
34 Bays of San Francisco, San Pablo, Suisun, and Monterey.

35 (d) “High seas” includes all the navigable waters of the Pacific
36 Ocean west of the Golden Gate Bridge, and all navigable waters
37 west of the westward boundary of the pilotage grounds for
38 Monterey Bay.

39 (e) “Inland pilot” means a person holding an inland pilot license
40 pursuant to Section 6892.

- 1 (f) “Pilot” means any of the following:
- 2 (1) Any person licensed under the authority of this chapter to
- 3 pilot vessels other than an inland pilot.
- 4 (2) Any person licensed under the authority of Division 5
- 5 (commencing with Section 6800) of the Harbors and Navigation
- 6 Code prior to January 1, 2009.
- 7 (3) Any person licensed as a bar pilot for the Bays of San
- 8 Francisco, San Pablo, Suisun, and Monterey prior to January 1,
- 9 1985.
- 10 (4) Any existing inland pilot who becomes a pilot pursuant to
- 11 Section 6891.
- 12 (5) Any pilot licensed pursuant to subdivision (b) of Section
- 13 6841.
- 14 (g) “Pilotage grounds” means all waters extending eastward
- 15 from the precautionary area surrounding buoy SF to, and including,
- 16 the Bays of San Francisco, San Pablo, and Suisun, and also includes
- 17 the waters of Monterey Bay, eastward of a straight line drawn
- 18 between Point Santa Cruz Light and Point Pinos Light.
- 19 (h) “Plan” or “pension” or “pension plan” means the San
- 20 Francisco Pilot Pension Plan established pursuant to Article 7
- 21 (commencing with Section 6860) of this chapter.
- 22 (i) “Vessel” means all vessels not exempted under provisions
- 23 of this chapter.

24
25 Article 2. Administration

- 26
- 27 6810. (a) There is in the Department of Consumer Affairs a
- 28 Board of Pilot Commissioners for the Bays of San Francisco, San
- 29 Pablo, Suisun, and Monterey, consisting of seven members
- 30 appointed by the Governor, with the consent of the Senate, as
- 31 follows:
- 32 (1) Two members shall be pilots licensed pursuant to this
- 33 chapter.
- 34 (2) Two members shall represent the industry and shall be
- 35 persons currently engaged as owners, officers, directors, employees,
- 36 or representatives of a firm or association of firms that is a
- 37 substantial user of pilotage service in the Bay of San Francisco,
- 38 San Pablo, Suisun, or Monterey, one of whom shall be engaged
- 39 in the field of tanker company operations, and one of whom shall
- 40 be engaged in dry cargo operations. The board of directors of a

1 regional maritime trade association controlled by West Coast vessel
2 operators that specifically represents the owners and operators of
3 vessels or barges engaged in transportation by water of cargo or
4 passengers from or to the Pacific area of the United States shall
5 nominate, rank, and submit to the Governor the names of three
6 persons for each category of industry member to be appointed.

7 (3) Three members shall be public members. Any person may
8 serve as a public member unless otherwise prohibited by law,
9 except that during his or her term of office or within the two years
10 preceding his or her appointment, no public member appointed on
11 or after January 1, 2009, may have (A) any financial or proprietary
12 interest in the ownership, operation, or management of tugs, cargo,
13 or passenger vessels, (B) sailed under the authority of a federal or
14 state pilot license in waters under the jurisdiction of the board, (C)
15 been employed by a company that is a substantial user of pilot
16 services, or (D) been a consultant or other person providing
17 professional services who had received more than 20 percent in
18 the aggregate of his or her income from a company that is a
19 substantial user of pilot services or an association of companies
20 that are substantial users of pilot services. Ownership of less than
21 one-tenth of 1 percent of the stock of a publicly traded corporation
22 is not a financial or proprietary interest in the ownership of tugs,
23 cargo, or passenger vessels.

24 (4) Notwithstanding any other provision of law, nothing in this
25 chapter prohibits the Governor from notifying the nominating
26 authority identified in paragraph (2) that persons nominated are
27 unacceptable for appointment. Following that notification, the
28 nominating authority shall submit a new list of nominees to the
29 Governor, naming three persons, none of whom were previously
30 nominated, from which the Governor may make the appointment.
31 This process shall be continued until a person nominated by the
32 nominating authority and satisfactory to the Governor has been
33 appointed.

34 (b) Each of the members shall be appointed for a four-year term,
35 and may not be appointed for more than two terms. Vacancies on
36 the board for both expired and unexpired terms shall be filled by
37 the appointing power in the manner prescribed by subdivision (a).

38 (c) A quorum of the board members consists of four members.
39 All actions of the board shall require the vote of four members, a
40 quorum being present.

1 (d) This section shall become inoperative on July 1, 2011, and,
2 as of January 1, 2012, is repealed, unless a later enacted statute
3 that is enacted before January 1, 2012, deletes or extends the dates
4 on which it becomes inoperative and is repealed. The repeal of
5 this section shall render the board subject to the review required
6 by Division 1.2 (commencing with Section 473).

7 6811. Each member of the board shall be a citizen of the United
8 States and a resident of California. Each member appointed
9 pursuant to paragraphs (1) and (3) of subdivision (a) of Section
10 6810 shall be a resident of one of the following counties: San
11 Francisco, Alameda, Contra Costa, Marin, Mendocino, Monterey,
12 Sacramento, San Mateo, Santa Clara, Santa Cruz, Solano, San
13 Joaquin, Napa, Sonoma, or Yolo. The member shall hold office
14 during the pleasure of the power appointing the member, not to
15 exceed four years from the date of the member's commission.

16 6812. Each public member of the board shall receive a per
17 diem and expenses as provided in Section 103, except that the
18 amount of the per diem may, from time to time, be adjusted by the
19 board such that per diem shall not exceed six hundred dollars
20 (\$600) each per month. The members, officers, and employees of
21 the board shall also be allowed their necessary and verified
22 expenses resulting from the performance of their duties.

23 6813. (a) The board shall organize itself by electing a
24 president, and shall provide offices in the City and County of San
25 Francisco or any other county specified in Section 6811, in which
26 it shall meet once a month and it may adjourn its regular meetings
27 from time to time.

28 (b) Meetings of the board are subject to the Bagley-Keene Open
29 Meeting Act (Article 9 (commencing with Section 11120) of
30 Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
31 Code).

32 6815. (a) Except as provided in Sections 6881 and 6885, all
33 moneys received by the board pursuant to the provisions of any
34 law shall be accounted for at the close of each month to the
35 Controller in the form which the Controller may prescribe and, at
36 the same time on the order of the Controller, all these moneys shall
37 be paid into the State Treasury to the credit of the Board of Pilot
38 Commissioners' Special Fund which is hereby created.

39 (b) Notwithstanding Section 13340 of the Government Code,
40 the moneys deposited in the State Treasury to the credit of the

1 Board of Pilot Commissioners' Special Fund are hereby
2 appropriated without regard to fiscal years for the payment of the
3 compensation and expenses of the board, its officers and
4 employees, and the training programs.

5 6815.5. Protection of the public shall be the highest priority
6 for the board in exercising its licensing, regulatory, and disciplinary
7 functions. Whenever the protection of the public is inconsistent
8 with other interests sought to be promoted, the protection of the
9 public shall be paramount.

10 6815.6. (a) The board is vested with all functions and duties
11 relating to the administration of this chapter, except those functions
12 and duties vested in the director under the provisions of Division
13 1 (commencing with Section 100).

14 (b) The board's vested powers include the power to make and
15 enforce rules and regulations that are reasonably necessary to carry
16 out its provisions and to govern its actions. These rules and
17 regulations shall be adopted in accordance with Chapter 3.5
18 (commencing with Section 11340) of Part 1 of Division 3 of Title
19 2 of the Government Code.

20 (c) The board may adopt rules and regulations of professional
21 conduct that are not inconsistent with state and federal law, and
22 may include definitions of incompetence, misconduct, and
23 negligence. Every person who holds a license issued by the board
24 pursuant to this chapter shall be governed by these rules and
25 regulations.

26 6816. (a) The board may appoint a person exempt from civil
27 service who shall be designated as an executive officer and who
28 shall exercise the powers and perform the duties delegated by the
29 board and vested in him or her by this chapter.

30 (b) This section shall become inoperative on July 1, 2011, and,
31 as of January 1, 2012, is repealed, unless a later enacted statute
32 that is enacted before January 1, 2012, deletes or extends the dates
33 on which it becomes inoperative and is repealed..

34 6816.2. The executive officer shall serve at the pleasure of the
35 board and shall be under the direct supervision of the board. The
36 term of office to which the executive officer is appointed is five
37 years. The first person appointed to the position of executive officer
38 shall be initially appointed by a vote of at least four members of
39 the board. Following the initial appointment, the executive officer
40 and subsequent executive officers may be appointed, reappointed,

1 or removed from office only by a vote of at least four members of
2 the board, including at least one industry member, one pilot
3 member, and one public member. The board may delegate to the
4 executive officer any of the following functions:

5 (a) The administration of personnel employed by the board, in
6 accordance with the civil service laws.

7 (b) To serve as treasurer of the board and keep, maintain, and
8 provide the board with all statements of accounts, records of
9 receipts, and disbursements of the board in accordance with law.

10 (c) The issuance and countersigning of licenses, which shall
11 also be signed by the president of the board.

12 (d) The administration of matters and the maintenance of files
13 pertaining to actions taken against licenses issued by the board.

14 (e) The investigation of and reporting on a navigational incident
15 or other matter for which a license issued by the board may be
16 revoked or suspended.

17 (f) To work with the pilot evaluation committee to recommend
18 to the board improvements in the pilot training program.

19 (g) Under the direction of the board, to coordinate with other
20 state and federal agencies charged with protecting the environment
21 and with the oil and hazardous chemical shipping industry.

22 (h) Any other function, task, or duty as may reasonably be
23 assigned by the president of the board, including, but not limited
24 to, performing research and obtaining documents and other
25 evidence for board activities, including rate hearings.

26 6817. (a) Whenever suspected safety standard violations
27 concerning pilot hoists, pilot ladders, or the proper rigging of pilot
28 hoists or pilot ladders are reported to the board, the executive
29 officer shall assign a commission investigator to personally inspect
30 the equipment for its compliance with the relevant safety standards
31 promulgated by the United States Coast Guard and the International
32 Maritime Organization. The commission investigator shall report
33 preliminary conclusions, including an assessment of the
34 equipment's compliance with the relevant safety standards, to the
35 executive officer as soon as possible. If the equipment is found to
36 be in violation of the relevant safety standards, the executive officer
37 shall immediately alert the Coast Guard Marine Safety Office. The
38 commission investigator shall submit a written report to the
39 incident review committee as established by subdivision (a) of
40 Section 6856. The incident review committee, in turn, shall report

1 its findings to the board. The board shall receive the incident review
2 committee's findings which may include other reports, information,
3 or statements from interested parties. The board shall specify, by
4 regulation, the information which shall be contained in the report.

5 (b) This section applies to the pilotage grounds, as defined in
6 Section 6805. Whenever a vessel passes outside of the pilotage
7 grounds, the commission investigator's report shall include that
8 fact along with a description of the incident.

9 (c) The record of the investigation and the board's findings and
10 recommendations, if any, shall be a public record maintained by
11 the board for 10 years.

12 6818. The executive officer shall not, during the term of his
13 or her office, serve as a member of the board, nor as a pilot or
14 inland pilot, nor be otherwise concurrently employed in the
15 maritime industry.

16 6819. The board may appoint, fix the compensation of, and
17 from time to time adjust the compensation of an administrative
18 assistant/secretary who shall work under the direct supervision of
19 the executive officer and shall keep a written record of all the
20 board's proceedings and acts and a register of all pilots appointed,
21 their residence, and the date of each license. In addition, he or she
22 shall perform any additional clerical, administrative, and other
23 duties as may reasonably be required by the executive officer.

24 6820. The public members, the executive officer, and the
25 administrative assistant/secretary of the board shall not have any
26 interest in any pilot vessel or tug, or in the earnings thereof, except
27 for the compensation provided in this chapter.

28 6821. (a) The board may select and contract with necessary
29 consultants to assist it in its enforcement program on an intermittent
30 basis. The consultants shall perform only those services that are
31 necessary to carry out and enforce this chapter.

32 (b) The employment of legal counsel by the board is subject to
33 the requirements of Section 11040 of the Government Code.

34 (c) For the purposes of Division 3.6 (commencing with Section
35 810) of Title 1 of the Government Code, any consultant under
36 contract with the board shall be considered a public employee.

37 6822. The board shall report annually to the Legislature, not
38 later than October 1 of each year, the following statistical
39 information for the prior fiscal year. The following data shall be
40 reported on incidents or complaints reported to the board against

1 licensed pilots, trainees, and any unlicensed persons acting as
2 licensees:

3 (a) The number of incidents or complaints received by the board
4 categorized by source, such as licensee, public, vessel master, trade
5 or professional association, government agency, or board-initiated,
6 and by type of complaint, such as licensee, trainee or nonlicensee.

7 (b) The number of complaints and incidents closed prior to
8 referral for field investigation, categorized by the reason for the
9 closure.

10 (c) The number of complaints and incidents referred for field
11 investigation categorized by the type of complaint or incident.

12 (d) The number of complaints and incidents closed after referral
13 for field investigation categorized by the reason for the closure.

14 (e) The number of complaints and incidents pending at the end
15 of the fiscal year grouped in 90-day increments, and the percentage
16 of total complaints and incidents pending.

17 (f) The number of citations issued to licensees categorized by
18 the type of citation, such as order of correction only or order of
19 correction and fine, and the number of citations issued to licensees
20 that were vacated or withdrawn.

21 (g) The number of citations issued to trainees or nonlicensees,
22 and the number of these citations that were vacated or withdrawn.

23 (h) The number of complaints or incidents resulting in the filing
24 of an accusation, categorized by type of complaint.

25 (i) Actions taken by the board, including, but not limited to, the
26 following:

27 (1) The number of disciplinary actions categorized by type, such
28 as revocations or suspensions, categorized by whether the
29 disciplinary action resulted from an accusation.

30 (2) The number of accusations dismissed or withdrawn.

31 (j) The number of interim suspension orders sought, the number
32 of interim suspension orders granted, the number of temporary
33 restraining orders sought, and the number of temporary restraining
34 orders granted.

35 (k) The amount of cost recovery ordered and the amount
36 collected.

37 (l) Case aging data, including data for each major stage of the
38 enforcement process, including the average number of days from
39 the filing of a complaint or incident to its review by the board's
40 incident review committee, the average number of days until its

1 closure by the board, the average number of days from the filing
2 of an accusation to the first hearing date or date of a stipulated
3 settlement.

4 6823. The board shall formally review the executive officer
5 with respect to the performance of his or her duties pursuant to
6 this article at least once each year.

7 6824. The president of the board may administer oaths in regard
8 to any matter properly before it and he or she may issue subpoenas
9 for witnesses in like cases. A witness disobeying such subpoena
10 served on him or her shall incur a penalty of one hundred dollars
11 (\$100), for which judgment may be recovered by the president in
12 a civil action. The provisions of this section shall not apply to
13 proceedings conducted in accordance with Chapter 5 (commencing
14 with Section 11500) of Part 1 of Division 3 of Title 2 of the
15 Government Code.

16

17 Article 3. Duties and Exclusive Rights of Pilotage

18

19 6825. (a) Pilots licensed by the board have exclusive authority,
20 to the extent not provided otherwise by federal law, to pilot vessels
21 from the high seas to Monterey Bay and the Bays of San Francisco,
22 San Pablo, and Suisun, and the ports thereof, and from those bays
23 and ports to the high seas. They shall also have exclusive authority
24 to pilot vessels within and along the waters of those bays, except
25 as otherwise set forth in this chapter.

26 (b) Nothing in this chapter shall interfere with pilotage
27 regulations of Monterey Bay and of the Ports of Sacramento and
28 Stockton, nor prevent the regulatory authority of those ports from
29 utilizing the pilots licensed pursuant to this chapter.

30 6826. (a) Every person who does not hold a license as a pilot
31 or as an inland pilot issued pursuant to this chapter, and who pilots
32 any vessel into or out of any harbor or port of Monterey Bay and
33 the Bay of San Francisco, San Pablo, or Suisun, or who acts as a
34 pilot for ship movements or special operations upon the waters of
35 any of those bays, is guilty of a misdemeanor. In addition to the
36 fines or other penalties provided by law, the court may order that
37 person to pay to the pilot who is entitled to pilot the vessel the
38 amount of pilotage fees collected. No fees shall be paid for pilotage
39 if a state-licensed pilot refuses to join the vessel under paragraph
40 (5) of subdivision (c).

1 (b) Any person may also be enjoined from engaging in the
2 pilotage prescribed by subdivision (a) by a court of competent
3 jurisdiction.

4 (c) This section does not apply to any of the following persons:

5 (1) The master of a vessel who has relieved the pilot to ensure
6 the safe operation of the vessel, but only from the point where the
7 pilot is relieved to the closest safe berth or anchorage, or the high
8 seas if closer than a safe berth or anchorage.

9 (2) Persons piloting vessels pursuant to the valid regulatory
10 authority of the Port of Sacramento or the Port of Stockton.

11 (3) Persons piloting vessels sailing under an enrollment, as
12 specified in Section 6830.

13 (4) Persons piloting vessels pursuant to Section 6851.

14 (5) Persons piloting vessels when a state-licensed pilot refuses
15 to join the vessel. However, a vessel may not hire a pilot not
16 licensed by the state until a representative of the vessel notifies
17 the port agent or his or her designee that the vessel will hire a pilot
18 not licensed by the state unless a state-licensed pilot offers to join
19 the vessel immediately. The port agent or his or her designee shall
20 notify the executive officer of the board or his or her designee that
21 this paragraph applies.

22 (d) The exemption set forth in paragraph (5) of subdivision (c)
23 does not apply in instances where a state licensed pilot refuses to
24 join a vessel because of suspected safety violations concerning
25 that vessel's pilot hoists or pilot ladders.

26 6827. A majority of all of the pilots licensed by the board shall
27 appoint one pilot to act as port agent to carry out the orders of the
28 board, other applicable laws, and otherwise administer the affairs
29 of the pilots. The appointment is subject to the confirmation of the
30 board.

31 6827.1. Pilots shall at all times keep, for their exclusive use,
32 vessels of such description and condition as the board may direct.

33 6827.2. Every pilot in charge of a vessel arriving in Monterey
34 Bay and the Bay of San Francisco, San Pablo, or Suisun shall
35 safely moor the vessel in place and position as directed by the
36 master of the vessel, consistent with safe navigation and not
37 contrary to law.

38 6827.3. Every pilot in charge of a vessel leaving the Bays of
39 San Francisco, San Pablo, and Suisun shall pilot it from its point
40 of departure to a point beyond the San Francisco bar. Every pilot

1 in charge of a vessel leaving Monterey Bay shall pilot it from its
2 point of departure to a point westward of the pilotage grounds.

3 6827.4. When a pilot goes aboard a vessel, the pilot becomes
4 a servant of the vessel and its owner and operator. Nothing in this
5 chapter exempts the vessel or its owner or operator from liability
6 to persons or property for damage or loss caused by the vessel or
7 its operation on the ground that (a) the vessel was piloted by a
8 pilot, or (b) the damage or loss was incurred as a result of the error,
9 omission, fault, or neglect of a pilot.

10 6827.5. Every pilot and inland pilot licensed pursuant to this
11 chapter shall do all of the following:

- 12 (a) Take an oath of office in the manner prescribed by law.
- 13 (b) Submit monthly to the board a verified account of all moneys
14 or other compensation received by the pilot or inland pilot as a
15 result of pilotage services, or by any other person for the pilot or
16 inland pilot, or on the pilot's or inland pilot's account, on the forms
17 furnished by the board.

18 6827.6. (a) The account shall show all of the following:

- 19 (1) The name of each vessel piloted.
- 20 (2) The name of the vessel's master.
- 21 (3) The name of each vessel for which pilotage has been charged
22 or collected.
- 23 (4) The amount charged to or collected from each.
- 24 (5) Any rebates made and allowed and for what amounts.
- 25 (6) Where the vessel is registered.
- 26 (7) The depth of each vessel's draft and its highest gross
27 tonnage.
- 28 (8) Whether the vessel was inward or outward bound.

29 (b) The administrative assistant/secretary of the board shall
30 record the accounts in full detail in a book prepared for that
31 purpose. The account book is a public record.

32 6827.7. (a) When cruising offshore or standing out to sea,
33 pilots shall go to the vessel nearest to shore or in the most distress,
34 or incur a penalty of one hundred dollars (\$100). For each refusal
35 by a pilot to board a vessel when required, a penalty of one hundred
36 dollars (\$100) shall be incurred.

37 (b) A pilot may be suspended or expelled by the board for a
38 violation of subdivision (a).

1 6827.8. (a) Every pilot boarding a vessel shall exhibit his or
2 her commission or license as a pilot when requested by the master
3 of the vessel.

4 (b) The board may suspend or revoke the commission or license
5 of a pilot for refusal to exhibit his or her commission or license
6 upon the proper request, and it may impose a liability of fifty
7 dollars (\$50) on the bond of the pilot.

8

9 Article 4. Liability of Persons and Vessels Using Pilot Services

10

11 6830. (a) The Legislature finds and declares that it is the policy
12 of the state to ensure the safety of persons, property, and vessels
13 using the waters of Monterey Bay and the Bays of San Francisco,
14 San Pablo, and Suisun and to avoid damage to those waters and
15 surrounding ecosystems as a result of vessel collision or damage
16 by providing competent, efficient, and regulated pilotage for vessels
17 required by this chapter to secure pilotage services.

18 (b) Nothing in this section shall supersede, modify, or otherwise
19 alter pilot practices that are not safety related, including, but not
20 limited to, the determination of rates charged for pilot services or
21 employer-employee relationships for individuals, agencies, or
22 organizations involved in providing pilotage services between any
23 port of Monterey Bay and the Bays of San Francisco, San Pablo,
24 and Suisun and any other port of the United States that is in
25 existence on December 31, 1995, or otherwise abridge the authority
26 of local port or harbor districts relating to pilotage in effect on
27 December 31, 1995.

28 (c) The board shall regulate pilotage on waters of the state as
29 provided in this chapter.

30 (d) Every vessel sailing under a coastwise license or
31 appropriately endorsed registry and engaged in the coasting trade
32 between any port of Monterey Bay and the Bays of San Francisco,
33 San Pablo, and Suisun, and any other port of the United States is
34 exempt from all pilotage charges unless a pilot or inland pilot is
35 actually employed. Every foreign vessel and every vessel bound
36 between a foreign port and any port of Monterey Bay and the Bays
37 of San Francisco, San Pablo, and Suisun, and every vessel sailing
38 under a register between any port of Monterey Bay and the Bays
39 of San Francisco, San Pablo, and Suisun, and any other port of the
40 United States, shall use a pilot or inland pilot holding a license

1 issued pursuant to this chapter, except as otherwise provided by
2 law.

3 (e) Subdivision (d) does not apply to a vessel that is less than
4 300 gross tons and is manufactured and used for private recreation.

5 6831. Vessels that use pilotage services, and their tackle,
6 apparel, furniture, and other appurtenances, and their owners,
7 operators, and agents are jointly and severally liable for pilotage
8 fees and for the surcharges established pursuant to this chapter.

9 6832. If any pilot, in endeavoring to assist or relieve any vessel
10 in distress, suffers loss or damage to the pilot's vessel, the owner
11 and operator of the distressed vessel are jointly and severally liable
12 for the loss or damage.

13 6833. (a) A pilot carried to sea against the pilot's will, or
14 unnecessarily detained on board a vessel when a pilot vessel is in
15 attendance to receive the pilot, shall receive six hundred dollars
16 (\$600) per day while so carried to sea or detained, plus
17 reimbursement for any expenses incurred by the pilot in returning
18 to the pilot station.

19 (b) The owner, operator, and agents of the detaining vessel are
20 jointly and severally liable for paying the amount specified in
21 subdivision (a).

22 6834. Any nonself-propelled vessel in tow of a tug within
23 Monterey Bay and the Bay of San Francisco, San Pablo, or Suisun,
24 or between those bays, is exempt from pilotage charges unless a
25 pilot is actually employed.

26

27 Article 5. Licensing of Pilots

28

29 6840. A pilot's license shall be issued in the name of the State
30 of California and contain a designation of the waters for which it
31 is intended. The license shall be signed by the president of the
32 board.

33 6841. (a) The board shall have the sole authority to determine
34 the qualifications for obtaining a license as a pilot or inland pilot
35 pursuant to this chapter, to determine who shall have a license,
36 and to issue the license.

37 (b) All persons possessing a valid state pilot's license on January
38 1, 2009, are hereby licensed as if the license was granted by the
39 board.

1 6842. (a) All pilots licensed pursuant to this chapter shall have
2 and maintain proper federal endorsements allowing them to pilot
3 on the high seas and on all waters of the Bays of San Francisco,
4 San Pablo, Suisun, and Monterey, including the San Joaquin River
5 and the Sacramento deep water ship channel.

6 (b) Notwithstanding subdivision (a), all pilots issued original
7 licenses on or before December 31, 1987, shall have and maintain
8 proper federal endorsements allowing them to pilot on the high
9 seas and on all waters of the Bays of San Francisco, San Pablo,
10 and Suisun, excluding the San Joaquin River and the Sacramento
11 deep water ship channel.

12 (c) All pilots licensed pursuant to this chapter for Monterey Bay
13 shall have and maintain proper federal endorsements allowing
14 them to pilot on the high seas and on all the waters of Monterey
15 Bay.

16 6843. (a) The board shall adopt, by regulation, a pilot's
17 conflict-of-interest code, which shall include, but need not be
18 limited to, a provision specifying that a pilot shall not have any
19 interest in, or derive any income from, any tugboat in operation
20 on Monterey Bay and the Bays of San Francisco, San Pablo, and
21 Suisun. This requirement of divestiture does not apply to the
22 ownership of barges and vessels similar to barges.

23 (b) The conflict-of-interest code shall not prohibit the ownership
24 of stock in any corporation registered on a national securities
25 exchange or on the National Market System of the NASDAQ Stock
26 Market, pursuant to Section 78f of Title 15 of the United States
27 Code, which may own tugboats in operation on Monterey Bay and
28 the Bays of San Francisco, San Pablo, and Suisun.

29 6844. (a) The board shall adopt, by regulation, licensing
30 standards that equal or exceed standards for obtaining federal
31 endorsements and that conform with and support the state policy
32 specified in Sections 6800 and 6801.

33 (b) The board shall adopt reasonable rules and regulations that
34 require pilots to be qualified to perform all pilot duties.

35 (c) The board shall adopt, by regulation, a training program and
36 a continuing education program for pilots, inland pilots, and pilot
37 trainees. In the case of pilot trainees, the training program shall be
38 for a minimum of one year and a maximum of three years. In the
39 case of pilots and inland pilots, the board shall specify the type,
40 nature, duration, and frequency of the continuing education

1 required, and the identity of the pilots or inland pilots who are
2 required to undergo continuing education in the next 12-month
3 period. Pursuant to Section 6859, the license of a pilot or inland
4 pilot may be revoked or suspended if he or she fails to complete
5 the continuing education required by this subdivision during the
6 period specified. The board shall also require that an evaluation
7 of the pilot's or inland pilot's performance be prepared by the
8 institution selected by the board to provide pilot continuing
9 education, and the institution shall provide copies of the evaluation
10 to the pilot or inland pilot and to the pilot evaluation committee.

11 (d) The board shall adopt, by regulation, the qualifications,
12 standards, and rating criteria for admission of pilot trainees to the
13 training program. Notwithstanding subdivision (f), the board shall
14 administer and conduct the pilot trainee admission selection in
15 accordance with the regulations for admission.

16 (e) The board shall establish a pilot evaluation committee
17 consisting of five active pilots who each have at least 10 years'
18 experience as a pilot on Monterey Bay or the Bays of San
19 Francisco, San Pablo, and Suisun. The board shall select the
20 members of the pilot evaluation committee. A member may not
21 serve for more than two four-year terms, except that two of the
22 initial members appointed to the pilot evaluation committee shall
23 serve terms of two years.

24 (f) The pilot evaluation committee shall conduct and supervise
25 the pilot training and continuing education programs pursuant to
26 the direction and regulation of the board and consistent with the
27 intent of this chapter.

28 (g) The board shall issue a certificate of completion to each
29 pilot trainee who satisfactorily completes the training program.
30 The board shall not issue a pilot's license to any person who does
31 not receive a certificate of completion of the training program from
32 the board, although the board may refuse to issue a pilot license
33 to a pilot trainee who has received this certificate.

34 (h) The training and continuing education programs for pilots,
35 inland pilots, and pilot trainees shall be funded from the Pilot
36 Trainee Fund, pursuant to Section 6881 and the Pilot and Inland
37 Pilot Continuing Education Fund pursuant to Section 6885.

38 6845. The board shall appoint and license the number of pilots
39 that is sufficient to carry out the purposes of this chapter.

1 6846. (a) In determining the number of pilots needed, pursuant
2 to Section 6845, the board shall take into consideration the findings
3 and declarations in Sections 6800 and 6801, the results of an audit
4 made pursuant to, and the factors specified in, Section 6878, the
5 industry’s current economic trends, fluctuations in the number of
6 vessel calls, the size of vessels, and whether the need for pilotage
7 is increasing or decreasing.

8 (b) Before changing the number of pilots that may be licensed
9 pursuant to this chapter, the board shall conduct a hearing pursuant
10 to Article 9 (commencing with Section 11120) of Chapter 1 of
11 Part 1 of Division 3 of Title 2 of the Government Code.

12 6847. An application for a pilot’s license shall be made in
13 writing to the board, stating such information as the board by rule
14 and regulation may require.

15 6848. (a) Pilots licensed by the board shall be carefully
16 examined as to their qualifications. A license as a pilot shall be
17 granted for a term of 12 months.

18 (b) The license shall be renewed annually unless the board has
19 good cause to withhold renewal pursuant to Article 6 (commencing
20 with Section 6855).

21 (c) Pilots and inland pilots shall undergo physical examinations
22 in accordance with standards prescribed by the board in conjunction
23 with the renewal of their license. The examination shall designate
24 that each pilot or inland pilot is fit to perform his or her duties as
25 a pilot.

26 6849. No person shall be licensed as a pilot unless all of the
27 following requirements are met:

28 (a) The person can meet the qualifications set by the board,
29 including age limitations, if any.

30 (b) The person is of good mental and physical health and good
31 moral character.

32 (c) The person possesses the requisite skill and experience as a
33 navigator and pilot, together with practical knowledge of the
34 currents, tide, soundings, bearings, and distances of the several
35 shoals, and the rocks, bars, points of landings, lights, and fog
36 signals of, or pertaining to, the navigation of the pilot ground for
37 which the person applies for a license to act as a pilot.

38 (d) The person can satisfy the board that the person has means
39 available for boarding and leaving vessels which the person may
40 be called upon to pilot.

1 6850. Persons applying for an original license shall not receive
2 a license unless they have proper federal endorsements allowing
3 them to pilot on the high seas and all the waters of those bays
4 pursuant to this article.

5 6851. Notwithstanding any other provision of this chapter, any
6 shipping company that regularly employed its employees, or
7 expressed its intent to the board to use its employees, for piloting
8 vessels on the Bays of San Francisco, San Pablo, and Suisun on
9 or before July 1, 1983, may employ and use its employees in that
10 manner in lieu of pilots provided under this chapter. However, this
11 use of employees as pilots on foreign flag vessels shall be limited
12 to five vessel calls per year for those shipping companies that have
13 only expressed their intent to use their employees in lieu of pilots.
14 This limitation shall not apply to those shipping companies that
15 regularly employed their employees for piloting vessels prior to
16 July 1, 1983.

17
18 Article 6. Suspension or Revocation of Pilot Licenses
19

20 6855. When, in the opinion of the board, there is reasonable
21 cause to believe that the public interest requires that a pilot or
22 inland pilot be summarily suspended pending hearing on charges
23 of misconduct that include any of the causes for suspension or
24 revocation specified in Section 6858 or when the board has
25 information that leads it to believe that a pilot or inland pilot has
26 become unable to comply with the standards of health or physical
27 condition requisite to a pilot's or inland pilot's duties, the board
28 may, without hearing, temporarily suspend the license of the pilot
29 or inland pilot for not exceeding 40 days, pending hearing and
30 decision on the charges. Unless an accusation on the charge is
31 served on the pilot or inland pilot as provided in Chapter 5
32 (commencing with Section 11500) of Part 1 of Division 3 of Title
33 2 of the Government Code, prior to the close of the sixth day after
34 the suspension becomes effective, the temporary suspension
35 terminates at the close of the sixth day.

36 6856. (a) The board shall establish an incident review
37 committee, which shall be composed of one public member of the
38 board and the executive officer. The board shall delegate to the
39 incident review committee the responsibility to review all reports
40 of misconduct or navigational incidents involving pilots or inland

1 pilots or other matters for which a license issued by the board may
2 be revoked or suspended. This subdivision does not apply to an
3 incident involving a pilot or inland pilot aboard a vessel of less
4 than 300 gross tons unless a pilot or inland pilot is required by
5 law.

6 (b) The incident review committee, with the assistance of one
7 or more investigators, shall investigate the incident, misconduct,
8 or other matter and prepare a written report. The incident review
9 committee may call witnesses and request additional information
10 if the incident review committee considers it necessary to conduct
11 a complete investigation. In performing their duties, the members
12 of the incident review committee and its investigators shall act
13 fairly and impartially and shall treat all matters developed or
14 maintained as required by law. The members of the incident review
15 committee and the investigators shall not discuss any investigation
16 with the board or any member of the board until the matter has
17 been finally acted on by the incident review committee, or final
18 action has been taken by the board, as appropriate. The board shall
19 specify, by regulation, the information to be contained in the report,
20 which shall include, but need not be limited to, the following
21 information relating to the incident, misconduct, or other matter:

22 (1) The name of the vessel, date, location, and identification of
23 the pilot or inland pilot.

24 (2) A description of the weather and sea conditions.

25 (3) An illustration and description of the incident, misconduct,
26 or other matter under investigation.

27 (4) An estimate of the damages, if any.

28 (5) The names of the witnesses providing information relating
29 to the incident, misconduct, or other matter under investigation.

30 (6) The nature and extent of any injuries.

31 (7) A summary of any prior investigations of incidents,
32 misconduct, or other matters involving the same pilot or inland
33 pilot designated pursuant to paragraph (1).

34 (8) Any relevant correspondence or records from the United
35 States Coast Guard relating to the incident, misconduct, or other
36 matter under investigation.

37 (9) A historical record of the actions taken in the investigation
38 and the action taken pursuant to Section 6857.

39 (10) A summary of the factual background of the incident,
40 misconduct, or other matter investigated.

1 (11) The following information that is not a part of the public
2 record:

3 (A) The report from the pilot or inland pilot.

4 (B) The confidential report of the investigator.

5 (c) Unless an accusation for suspension or revocation of the
6 pilot's or inland pilot's license is served on the pilot or inland pilot
7 as provided in Chapter 5 (commencing with Section 11500) of
8 Part 1 of Division 3 of Title 2 of the Government Code, the incident
9 review committee shall present the completed investigation report
10 to the board at the first monthly meeting of the board after the
11 completion of the report. Unless an extension is granted by the
12 board, the report shall be presented within 90 days of the date of
13 the incident, misconduct, or other matter investigated.

14 (d) The record of the investigation prepared pursuant to
15 subdivision (b) and the final disposition of the incident,
16 misconduct, or other matter shall be retained in the records of the
17 board for 10 years after the completion of the investigation and,
18 except for the items listed in paragraph (11) of subdivision (b),
19 shall be a public record.

20 6857. (a) The incident review committee, after full
21 consideration of the evidence relating to the investigation of an
22 incident, misconduct, or other matter pursuant to Section 6856,
23 shall, at the conclusion of the investigation, take one of the
24 following actions:

25 (1) Serve an accusation for suspension or revocation of the
26 pilot's or inland pilot's license on the pilot or inland pilot, as
27 provided in Chapter 5 (commencing with Section 11500) of Part
28 1 of Division 3 of Title 2 of the Government Code, pursuant to
29 Sections 6858 and 6859.

30 (2) Recommend that the board approve a written stipulation for
31 corrective action to be performed by the pilot or inland pilot, which
32 may include, but is not limited to, further training or supervised
33 practice trips. A written stipulation may provide that it may be
34 referred to and considered following a finding of fault in any
35 subsequent accusation brought against the same pilot or inland
36 pilot for the purpose of considering an appropriate sanction. A
37 written stipulation shall not be used for any purpose more than
38 five years after the date of its execution.

39 (3) Provide counseling for the pilot or inland pilot relating to
40 the duties and obligations of a pilot.

1 (4) Issue a warning letter of reprimand to the pilot or inland
2 pilot.

3 (5) Take any other action, as provided in the guidelines adopted
4 pursuant to subdivision (e).

5 (6) Close the investigation without further action.

6 (b) Action shall be taken by the incident review committee
7 pursuant to subdivision (a) only if both members of the incident
8 review committee agree on the course of action. If agreement
9 cannot be reached between the board member serving on the
10 incident review committee and the executive officer concerning
11 appropriate action, the president of the board shall appoint one
12 additional public member of the board to serve on the incident
13 review committee until there is final disposition of the case. Action
14 required pursuant to subdivision (a) shall then be taken by a
15 majority vote of the incident review committee.

16 (c) No member of the board shall sit on the board as a trier of
17 fact for those cases where he or she has served on the incident
18 review committee recommending action to the board.

19 (d) The executive officer shall establish a suspense file to ensure
20 that all training, practice trips, or other corrective action required
21 to be performed pursuant to subdivision (a) by the pilot or inland
22 pilot are completed as required. The executive officer shall report
23 to the board each month on the progress of any training, supervised
24 practice trips, or other corrective action or the completion of any
25 other action required pursuant to subdivision (a).

26 (e) The board shall adopt guidelines for the determination by
27 the incident review committee of the action to be taken pursuant
28 to subdivision (a) at the completion of any investigation conducted
29 pursuant to Section 6856.

30 6858. The license of a pilot or inland pilot may be revoked or
31 suspended before its expiration only for reasons of misconduct,
32 which shall include, but not be limited to, the following:

33 (a) Neglect, for 30 days after it becomes due, to render an
34 account to the board of all money received for pilotage.

35 (b) Neglect, for 30 days after it becomes due, to pay over to the
36 board the percentage of all pilotage money received, as set by the
37 board.

38 (c) Rendering to the board a false account of pilotage received.

39 (d) Absence from duty for more than one month at any one time
40 without leave granted by the board, unless sickness or personal

1 injury causes the absence. This subdivision does not apply to inland
2 pilots.

3 (e) Refusing to exhibit the pilot or inland pilot license when
4 requested to do so by the master of any vessel boarded.

5 (f) Intoxication or being under the influence of any substance
6 or combination of substances which so affects the nervous system,
7 brain, or muscles as to impair, to an appreciable degree, the ability
8 to conduct the duties of a pilot or inland pilot while on duty.

9 (g) Negligently, ignorantly, or willfully running any vessel on
10 shore, or otherwise rendering it liable to damage, or otherwise
11 causing injury to persons or damage to property. However, this
12 subdivision does not apply to a vessel of less than 300 gross tons
13 unless a pilot or inland pilot is required by law.

14 (h) Willful violation of the rules and regulations adopted by the
15 board for the government of pilots or inland pilots.

16 (i) Inability to comply with the standards of health or physical
17 condition requisite to the duties of a pilot or inland pilot, but in
18 that case the burden of proving compliance with these standards
19 is upon the licensee, unless prior to the hearing the licensee takes
20 and passes those tests or examinations required by the board.

21 6859. (a) If, after a hearing, the board finds that the pilot or
22 inland pilot is guilty of any misconduct sufficient for deprivation
23 of the license, the board shall revoke or suspend the license of the
24 pilot or inland pilot. The order shall be entered of record in the
25 minutes by the administrative assistant/secretary. The proceedings
26 shall be conducted in accordance with Chapter 5 (commencing
27 with Section 11500) of Part 1 of Division 3 of Title 2 of the
28 Government Code, and the board shall have all the powers granted
29 therein.

30 (b) Upon notification of nonrenewal of the license, a pilot or
31 inland pilot is entitled to a trial and hearing in the same manner
32 that other charges and accusations against pilots and inland pilots
33 are tried.

34 In every case of nonrenewal, suspension, or revocation of the
35 license of a pilot or inland pilot for cause, the final decision of the
36 board is subject to judicial review in accordance with law, and the
37 court shall exercise its independent judgment on the evidence.

Article 7. Pilot Pension Plan

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6860. There is hereby established a San Francisco Bar Pilot Pension Plan which is continued in existence as the San Francisco Pilot Pension Plan.

6861. All amounts generated by the pension plan shall be used solely to pay pensions to retired pilots and inland pilots, disabled pilots and inland pilots, the surviving spouses of pilots and inland pilots, and to pay the expenses of the plan.

6862. (a) The pension plan shall be administered and all benefit payments shall be made by one or more fiduciary agents selected by the board. Except for the collection of revenues in accordance with Section 6865 and the pilots serving as members of the board, and unless otherwise directed by the board, the pilots shall have no control of any kind or manner over the operation, administration, or management of the plan.

(b) All revenues pursuant to the plan shall be collected by the pilots, at no cost to the state or board, and transmitted monthly to the fiduciary agent or agents. The revenues shall not be included in the account required by Section 6827.6.

6863. (a) (1) (A) Each retired pilot and inland pilot, who has completed 25 full years of service as a pilot or inland pilot, or both, shall receive, as a target monthly pension, an amount that is initially equal to 46 percent of an amount that is an average of the highest three of the last five years of audited annual average net income per pilot, prior to the pilot’s or inland pilot’s retirement, divided by 12, which initial target monthly pension amount shall be subject to periodic adjustment pursuant to Section 6867. Pilots or inland pilots with other than 25 full years of service as a pilot or inland pilot, or both, shall receive a monthly pension in an amount that is determined by multiplying the above calculated target monthly pension by a fraction, the numerator of which shall be the number of full years of service that the pilot or inland pilot has rendered and the denominator of which shall be 25 years, which initial monthly pension amount shall be subject to periodic adjustment pursuant to Section 6867.

(B) Each disabled pilot or inland pilot shall receive as an initial target monthly pension an amount that is based on 46 percent of the greater of the following, which amount shall be subject to periodic adjustment pursuant to Section 6867:

1 (i) An amount that is the average of the highest three of the last
2 five years of audited annual average net income per pilot divided
3 by 12 and multiplied by a fraction, the numerator of which shall
4 be the number of full years of service that the pilot or inland pilot
5 has rendered and the denominator of which shall be 25 years.

6 (ii) The audited annual average net income per pilot, for the last
7 year prior to the pilot's or inland pilot's disability, divided by 12
8 and multiplied by a fraction, the numerator of which shall be the
9 number of full years of service that the pilot or inland pilot has
10 rendered and the denominator of which shall be 25 years.

11 (C) Each pilot who retired before January 1, 1985, shall receive
12 as an initial target monthly pension an amount that is one hundred
13 seventy-eight dollars (\$178) multiplied by the number of full years
14 of service he or she performed as a pilot licensed under this chapter,
15 which amount shall be subject to periodic adjustment pursuant to
16 Section 6867.

17 (D) Each pilot who retired on or after January 1, 1985, or each
18 inland pilot who retired after January 1, 1993, shall receive as an
19 initial target monthly pension an amount that is the greater of the
20 following, which amount shall be subject to periodic adjustment
21 pursuant to Section 6867:

22 (i) An amount that is calculated by multiplying one hundred
23 seventy-eight dollars (\$178) by the number of full years of service
24 the pilot or inland pilot performed as a pilot or inland pilot licensed
25 under this chapter.

26 (ii) An amount that is 46 percent of the average of the highest
27 three of the last five years of audited annual average net income
28 per pilot, prior to the pilot's or inland pilot's retirement, divided
29 by 12 and multiplied by a fraction, the numerator of which is the
30 pilot's or inland pilot's actual number of full years of service and
31 the denominator of which is 25 years.

32 (2) A pilot or inland pilot who retires or becomes disabled shall
33 not begin to receive a pension until the beginning of the benefit
34 payment period next following the date on which the pilot or inland
35 pilot retires or becomes disabled.

36 (3) A pilot or inland pilot shall not receive any benefits pursuant
37 to the pension plan in any benefit payment period unless the pilot's
38 or inland pilot's resignation as an active pilot or inland pilot
39 specifying a proposed date of retirement was submitted, in writing,
40 to the board, prior to November if the pilot's or inland pilot's

1 retirement is to be effective the first day of the following January,
2 prior to February if the pilot's or inland pilot's retirement is to be
3 effective the first day of the following April, prior to May if the
4 pilot's or inland pilot's retirement is to be effective the first day
5 of the following July, or prior to August if the pilot's or inland
6 pilot's retirement is to be effective the first day of the following
7 October. The pilot's or inland pilot's resignation as an active pilot
8 or inland pilot shall become effective on either January 1, April
9 1, July 1, or October 1, as specified in the written resignation.

10 (4) If a retired or disabled pilot or inland pilot who is receiving
11 a pension dies without a surviving spouse, the pilot's or inland
12 pilot's successor in interest shall receive the monthly pension for
13 the remainder of the benefit payment period within which the death
14 occurs, after which time the monthly pension shall cease.

15 (b) (1) The surviving spouse of a deceased pilot who is eligible
16 for a pension pursuant to paragraph (1) of subdivision (e) of Section
17 6864 and the surviving spouse of a deceased inland pilot who is
18 eligible for a pension pursuant to paragraph (2) of subdivision (e)
19 of Section 6864 shall each receive, as a monthly pension,
20 three-fourths of the amount that the deceased pilot or inland pilot
21 would have received as a monthly pension pursuant to this section
22 had the pilot or inland pilot lived, calculated as if the deceased
23 pilot or inland pilot had been disabled pursuant to subparagraph
24 (B) of paragraph (1) of subdivision (a).

25 (2) If a retired or disabled pilot or inland pilot who was receiving
26 a pension dies, the surviving spouse shall continue to receive the
27 full amount of the monthly pension to which the deceased pilot or
28 inland pilot was entitled for the balance of the benefit payment
29 period within which the death occurs, after which the surviving
30 spouse shall receive the amount specified in paragraph (1).

31 (3) If a surviving spouse receiving a pension dies, the surviving
32 spouse's successor in interest shall receive the monthly pension
33 for the remainder of the benefit payment period within which the
34 death occurs, after which time the monthly pension shall cease.

35 (c) For the purpose of the computations described in paragraph
36 (1) of subdivision (a), six months or more of service by a pilot or
37 inland pilot shall be considered a full year.

38 (d) Except as provided otherwise in this section and paragraph
39 (4) of subdivision (e) of Section 6864, monthly pension amounts
40 payable pursuant to this section to retired pilots and inland pilots

1 and to their surviving spouses are payable for the life of that retired
2 pilot, inland pilot, or spouse.

3 (e) To determine an inland pilot's full years of service under
4 this chapter, any periods of service that an inland pilot has
5 performed as a pilot shall be added to any service time performed
6 as an inland pilot after January 1, 1987.

7 (f) In calculating the benefits of a retired or disabled pilot who
8 was issued an original pilot's license in 1985 and who was not
9 thereafter issued an inland pilot's license, or in calculating the
10 benefits of the widow of such a pilot who is deceased, the number
11 of years of service used in the calculation shall be the greater of
12 the following:

13 (1) The actual number of full years of service the pilot has
14 rendered.

15 (2) Ten years.

16 6864. (a) Except as provided in subdivision (b), a pilot shall
17 be eligible for the pension provided in Section 6863 if the pilot
18 meets all of the following requirements:

19 (1) Held a license as a pilot and served at least 10 years in that
20 capacity or has attained 62 years of age, whichever occurs first.

21 (2) Retired after January 1, 1972.

22 (3) Is at least 60 years of age.

23 (b) A disabled pilot shall be eligible for the pension provided
24 in Section 6863 if it has been determined by the board, based upon
25 competent medical evidence, that the pilot is unable to perform
26 the duties of a pilot. As used in this chapter, "disabled" means a
27 disability of permanent or extended and uncertain duration, as
28 determined by the board, on the basis of competent medical
29 opinion.

30 (c) Except as provided in subdivision (d), an inland pilot shall
31 be eligible for the pension provided in Section 6863 if the inland
32 pilot meets all of the following requirements:

33 (1) Held a license as an inland pilot and served at least 10 years
34 in that capacity after January 1, 1987, or has attained 62 years of
35 age, whichever occurs first.

36 (2) Retired after January 1, 1987.

37 (3) Is at least 60 years of age.

38 (4) Since January 1, 1987, has held himself or herself out as
39 providing pilotage assistance to the entire shipping industry
40 consistent with the inland pilot's license.

1 (5) For services provided after January 1, 1994, performs a
2 minimum of 75 assignments per calendar year unless excused from
3 performance of that requirement due to medical needs satisfactory
4 to the board.

5 (d) A disabled inland pilot who meets the requirements of
6 paragraph (4) of subdivision (c) shall be eligible for the pension
7 provided in Section 6863 if it has been determined by the board,
8 based upon competent medical evidence, that the inland pilot is
9 unable to perform the duties of an inland pilot.

10 (e) (1) A surviving spouse of a deceased pilot shall be eligible
11 for the pension provided in subdivision (b) of Section 6863 if that
12 deceased pilot died after January 1, 1972, and that deceased pilot
13 had held a license as a pilot.

14 (2) A surviving spouse of a deceased inland pilot shall be
15 eligible for the pension provided in subdivision (b) of Section 6863
16 if the deceased inland pilot died after January 1, 1987, had held a
17 license as an inland pilot, and since January 1, 1987, had held
18 himself or herself out as providing pilotage assistance to the entire
19 shipping industry consistent with the inland pilot's license.

20 (3) In order for a surviving spouse to be eligible for any pension
21 benefits pursuant to this chapter, the surviving spouse shall have
22 been legally married to the deceased pilot or inland pilot for at
23 least one year prior to the deceased pilot's or inland pilot's death.

24 (4) A surviving spouse of a deceased pilot or inland pilot shall
25 neither be eligible for, nor receive, pension benefits pursuant to
26 this chapter if the surviving spouse remarries. If a surviving spouse
27 who is receiving a monthly pension under this chapter remarries,
28 the surviving spouse's successor in interest shall receive the amount
29 of the monthly pension for the remainder of the benefit payment
30 period as if the surviving spouse had died, in accordance with
31 paragraph (3) of subdivision (b) of Section 6863.

32 6865. (a) In addition to, and concurrently with, the basic
33 pilotage rate described in Section 6870, a charge shall be levied
34 for pilotage services at a rate necessary to provide the benefits to
35 be paid out pursuant to the pension plan. The additional rate shall
36 be determined as follows:

37 (1) On March 1, June 1, September 1, and December 1 of each
38 year, the number of persons eligible to receive benefits under the
39 plan, their identities, the calculated amount each shall be entitled
40 to receive, and the total amount to be paid out to all of those

1 persons during each month of the next three-month period shall
2 be determined by the fiduciary agent or agents.

3 (2) After the total amount to be paid out monthly under the plan
4 has been determined, the rate necessary to provide that amount
5 each month shall be calculated by the fiduciary agent or agents.
6 The rate shall be based upon the volume of shipping, in gross
7 registered tons, handled by pilots licensed under this chapter for
8 the 12-month periods ending the previous September 30 for benefit
9 periods commencing the following January 1, ending the previous
10 December 31 for benefit periods commencing the following April
11 1, ending the previous March 31 for benefit periods commencing
12 the following July 1, and ending the previous June 30 for benefit
13 periods commencing the following October 1, respectively. The
14 rate shall be expressed as mills per gross registered ton and shall
15 be calculated to the nearest one-hundredth of a mill.

16 (3) The estimated cost of the services of the fiduciary agent or
17 agents to administer the pension plan shall be calculated by the
18 fiduciary agent or agents for the benefit periods described in
19 paragraph (2), shall be expressed as mills per gross registered ton,
20 and shall be calculated to the nearest one-hundredth of a mill.

21 (b) The rate determined pursuant to paragraphs (1), (2), and (3)
22 of subdivision (a) shall become effective on January 1 of the
23 following year with respect to the September 30 calculations, on
24 April 1 of the following year with respect to the December 31
25 calculations, on July 1 of that year with respect to the March 31
26 calculations, and on October 1 of that year with respect to the June
27 30 calculations. The rates shall be in effect for the succeeding
28 benefit payment period.

29 6866. (a) The benefits actually paid out each month by the
30 fiduciary agent or agents designated by the board to all retired and
31 disabled pilots and inland pilots, to surviving spouses of deceased
32 pilots and inland pilots, and to successors in interest shall be equal
33 to the revenue received pursuant to Section 6865 during the
34 preceding month less the expenses of the fiduciary agent or agents
35 incurred during that month. The revenue, whether greater or less
36 than the amount used in determining the tonnage rates under this
37 chapter to provide the aggregate target pensions to which those
38 persons are entitled according to Section 6863, shall be paid to
39 each of them in proportion to the relative target amounts to which

1 they are entitled, after payment of the expenses of the fiduciary
2 agent or agents.

3 (b) Revenues for any month or year are the amounts to be
4 received pursuant to the pension plan for pilotage during that month
5 or year. The fiduciary agent or agents shall determine which
6 accounting system shall be used to make the payment, provided
7 that, if the accrual method is used, it shall be subject to later
8 equitable adjustments for unpaid receivables.

9 (c) Benefits pursuant to the new rate calculations shall be paid
10 commencing in February, May, August, and November of each
11 year and shall continue through, and include, the next following
12 April, July, October, and January, respectively, so that each benefit
13 pension period equals three months of payments. The period during
14 which benefits are paid is the benefit payment period.

15 6867. (a) The board shall review the benefits received by
16 retired or disabled pilots and inland pilots and their surviving
17 spouses every three years or when the cumulative percentage
18 increase in the Consumer Price Index (San Francisco Bay Area)
19 has exceeded 12 percent, whichever occurs first.

20 (b) The board may increase the monthly pensions specified in
21 Section 6863. Those increases shall take into consideration the
22 maritime industry practice in the United States as brought to the
23 attention of the board by the pilots, inland pilots, or the industry.
24 The increase shall not exceed 50 percent of the cumulative increase
25 in the Consumer Price Index (San Francisco Bay Area). Monthly
26 pensions for retired pilots, inland pilots, or their surviving spouses
27 who have been retired less than the full three-year interval between
28 adjustments shall increase on a pro rata basis according to the
29 number of months that those persons have been retired prior to
30 that adjustment.

31 6868. The board may review the pension plan and make any
32 recommendations it deems necessary for changes in the plan.
33 Monthly pensions shall not be adjusted except as provided by
34 Section 6867.

35

36

Article 8. Pilotage Rates

37

38 6870. (a) Every vessel spoken inward or outward bound shall
39 pay the following rate of bar pilotage through the Golden Gate

1 and into or out of the Bays of San Francisco, San Pablo, Suisun,
2 and Monterey:

3 (1) Eight dollars and eleven cents (\$8.11) per draft foot of the
4 vessel's deepest draft and fractions of a foot pro rata, and an
5 additional charge of 73.01 mills per high gross registered ton as
6 changed pursuant to law in effect on December 31, 1999. The mill
7 rates established by this paragraph may be changed as follows:

8 (A) (i) On and after January 1, 2007, if the number of pilots
9 licensed by the board is reduced to 60 pilots, for any subsequent
10 decrease in the number of pilots, the mill rate then in effect shall
11 be decreased by an incremental amount that is proportionate to
12 one-half of the last audited annual average net income per pilot
13 for each pilot licensed by the board below 60 pilots.

14 (ii) On and after January 1, 2007, if the number of pilots licensed
15 by the board falls below 60, for any subsequent increase in the
16 number of pilots, the mill rate then in effect shall be increased by
17 an incremental amount that is proportionate to one-half of the last
18 audited annual average net income per pilot for each new pilot that
19 results in an increase in the number of pilots then licensed by the
20 board.

21 (iii) The incremental mill rate adjustment authorized by this
22 subparagraph shall be calculated using the data reported to the
23 board for the number of gross registered tons handled by pilots
24 licensed under this chapter during the same 12-month period as
25 the audited annual average net income per pilot. The incremental
26 mill rate adjustment shall become effective at the beginning of the
27 quarter (January 1, April 1, July 1, or October 1) as directed by
28 the board.

29 (B) In addition to the rate change specified in subparagraph (A)
30 and the incremental rate specified in Section 6889, the mill rate
31 established by this subdivision may be adjusted at the direction of
32 the board if, after a hearing conducted pursuant to Article 9
33 (commencing with Section 11120) of Chapter 1 of Part 1 of
34 Division 3 of Title 2 of the Government Code, the board determines
35 that there has been a catastrophic cost increase to the pilots that
36 would result in at least a 2-percent increase in the overall annual
37 cost of providing pilot services.

38 (2) A minimum charge for bar pilotage shall be six hundred
39 sixty-two dollars (\$662) for each vessel piloted.

1 (3) The vessel's deepest draft shall be the maximum draft
2 attained, on a stillwater basis, at any part of the vessel during the
3 course of such transit inward or outward.

4 (b) The rate specified in subdivision (a) shall apply only to a
5 pilotage that passes through the Golden Gate to or from the high
6 seas to or from a berth within an area bounded by the Union Pacific
7 Railroad Bridge to the north and Hunter's Point to the south. The
8 rate for pilotage to or from the high seas to or from a point past
9 the Union Pacific Railroad Bridge or Hunter's Point shall include
10 a movement fee in addition to the basic bar pilotage rate as
11 specified by the board pursuant to Section 6871.

12 (c) The rate established in paragraph (1) of subdivision (a) shall
13 be for a trip from the high seas to dock or from the dock to high
14 seas. The rate specified in Section 6871 shall not be charged by
15 pilots for docking and undocking vessels. This subdivision does
16 not apply to the rates charged by inland pilots for their services.

17 (d) Consistent with the board's May 2002 adoption of rate
18 recommendations, the rates imposed pursuant to paragraph (1) of
19 subdivision (a) that are in effect on December 31, 2002, shall be
20 increased by 4 percent on January 1, 2003; those in effect on
21 December 31, 2003, shall be increased by 4 percent on January 1,
22 2004; those in effect on December 31, 2004, shall be increased by
23 3 percent on January 1, 2005; and those in effect on December 31,
24 2005, shall be increased by 3 percent on January 1, 2006.

25 6870.5. Every vessel that uses a pilot under this chapter while
26 navigating the waters of Monterey Bay shall pay the rate provided
27 by subdivisions (a) and (d) of Section 6870.

28 6871. (a) The board, pursuant to this article, shall recommend
29 that the Legislature, by statute, adopt a schedule of pilotage rates
30 providing fair and reasonable return to pilots and inland pilots
31 engaged in ship movements or special operations where rates for
32 those movements or operations are not specified in Section 6870.

33 (b) Every vessel using pilots and inland pilots for ship
34 movements or special operations that do not constitute bar pilotage
35 shall pay the rate specified in the schedule of pilotage rates adopted
36 by the Legislature.

37 (c) Consistent with the board's adoption of rate
38 recommendations in May 2002, the minimum rates imposed
39 pursuant to this section that are in effect on December 31, 2002,
40 shall be increased by 26 percent on January 1, 2003; those in effect

1 on December 31, 2003, shall be increased by 26 percent on January
2 1, 2004; those in effect on December 31, 2004, shall be increased
3 by 14 percent on January 1, 2005; and those in effect on December
4 31, 2005, shall be increased by 14 percent on January 1, 2006.

5 6872. If a vessel that is subject to the payment of pilotage enters
6 any port of Monterey Bay and the Bays of San Francisco, San
7 Pablo, and Suisun solely by reason of being in distress or requiring
8 care, it shall pay one-half the full pilotage rates.

9 6873. (a) Except as provided in subdivision (c), the rates and
10 charges for pilotage services shall not include the cost of primary
11 marine insurance insuring a pilot, an organization of pilots, or their
12 officers or employees, from liability arising from negligence or
13 errors in judgment in connection with the provision of pilotage
14 service by pilots, organizations of pilots, or their officers or
15 employees.

16 (b) A pilot who holds a state license for the Bays of San
17 Francisco, San Pablo, and Suisun shall arrange to have available,
18 upon advance written notice, trip insurance, with coverage limits
19 of thirty-six million dollars (\$36,000,000), naming as insureds the
20 pilot, any organization of pilots to which the pilot belongs, and
21 their officers and employees, and insuring the named insureds
22 against any civil claim, demand, suit, or action by whomsoever
23 asserted, arising out of, or relating to, directly or indirectly, acts
24 or omissions of the insureds in connection with the provision of
25 pilotage service, except willful misconduct.

26 (c) Every vessel, owner, operator, or demise or bareboat
27 charterer hiring a pilot with a state license for the Bays of San
28 Francisco, San Pablo, and Suisun shall either defend, indemnify,
29 and hold harmless pilots pursuant to paragraph (1), or alternatively,
30 notify pilots of an intent to pay for trip insurance pursuant to
31 paragraph (2). If a vessel or its owner, operator, or demise or
32 bareboat charterer does not provide written notice pursuant to
33 paragraph (2) of an intent to exercise the trip insurance option,
34 then the vessel and its owner, operator, and demise or bareboat
35 charterer will be deemed to have elected the obligation to defend,
36 indemnify, and hold harmless pilots pursuant to paragraph (1).

37 (1) (A) Except for a vessel electing trip insurance pursuant to
38 paragraph (2), a vessel subject to this subdivision, and its owner,
39 operator, demise or bareboat charterer, and agent shall not assert
40 any claim, demand, suit, or action against the pilot, any

1 organization of pilots to which the pilot belongs, and their officers
2 and employees, for damages, including any rights over, arising
3 out of, or connected with, directly or indirectly, any damage, loss,
4 or expense sustained by the vessel, its owners, agents, demise or
5 bareboat charterers, operators, or crew, or by any third parties,
6 even if the damage results, in whole, or in part, from any act,
7 omission, or negligence of the pilot, any organization of pilots to
8 which the pilot belongs, and their officers and employees.

9 (B) A vessel subject to this paragraph and its owner, operator,
10 and demise or bareboat charterer shall defend, indemnify, and hold
11 harmless the pilot, any organization of pilots to which the pilot
12 belongs, and their officers and employees, with respect to liability
13 arising from any claim, suit, or action, by whomsoever asserted,
14 resulting in whole, or in part, from any act, omission, or negligence
15 of the pilot, any organization of pilots to which the pilot belongs,
16 and their officers and employees. The obligation to indemnify
17 under this paragraph shall not apply to the extent that it causes the
18 amount recoverable from a vessel, its owner, operator, or demise
19 or bareboat charterer to exceed the limits of liability to which it is
20 entitled under any bill of lading, charter party, contract of
21 affreightment, or provision of law.

22 (C) The prohibition on claims by vessels, owners, operators,
23 demise or bareboat charterers, and agents imposed by subparagraph
24 (A) and the obligation to defend, indemnify, and hold harmless
25 the pilot imposed by subparagraph (B) shall not apply in cases of
26 willful misconduct by a pilot, any organization of pilots to which
27 the pilot belongs, and their officers and employees.

28 (D) A pilot who is the prevailing party shall be awarded
29 attorney's fees and costs incurred in any action to enforce a right
30 to indemnification provided pursuant to this subdivision.

31 (2) In lieu of paragraph (1), a vessel subject to this subdivision
32 and its owner, operator, demise or bareboat charterer, and agent
33 may elect to notify the pilot, or the organization of pilots to which
34 the pilot belongs, of intent to pay for trip insurance, as described
35 in subdivision (b). If notice of this election is received, in writing,
36 by the pilot, or the organization of pilots to which the pilot belongs,
37 at least 24 hours prior to the time pilotage services are requested,
38 the vessel, and its owner, operator, demise or bareboat charterer,
39 and agent are not subject to the requirements of paragraph (1). The
40 pilot shall take all steps necessary to have trip insurance coverage

1 in place during the vessel movement for which it is requested. The
2 pilot shall assess to the vessel the premium for the trip insurance
3 at the pilot's cost, in addition to any other applicable rates and
4 charges for the pilotage services provided.

5 (d) Nothing in this section is intended to limit, alter, or diminish
6 the liability of a vessel, owner, operator, or demise or bareboat
7 charterer to any person who sustains loss or damage.

8 6874. The board shall, from time to time, review pilotage
9 expenses and establish guidelines for the evaluation and application
10 of these expenses regarding its recommendations for adjustments
11 in rates.

12 6875. Any party directly affected by pilotage rates established
13 under this chapter may petition the board for a public hearing on
14 any of the matters set forth in Section 6874. Within 10 days from
15 the filing of the petition the board shall call public hearings to be
16 held not less than 30 nor more than 60 days of the date of call for
17 the purpose of obtaining information and data relating to the issues
18 raised in the petition. The board shall give notice of the hearings
19 to all interested parties who have requested the notification. At the
20 conclusion of the hearing or hearings, the board shall review and
21 evaluate all evidence obtained and, within 120 days from the filing
22 of the petition, shall submit to the Secretary of the Senate and the
23 Chief Clerk of the Assembly a copy of its findings and
24 recommendations for final determination, supported by a transcript
25 of these proceedings of the board.

26 6876. (a) The board shall not receive written evidence at a
27 public hearing held for the purpose of considering pilotage rates
28 unless 10 or more copies of the evidence have been deposited with
29 the board as public documents by the party proposing a rate
30 adjustment 30 or more days prior to the date set for the
31 commencement of the hearing.

32 (b) The board shall not receive written evidence at the hearing
33 from any party responding to the request unless the evidence is
34 deposited with the board 10 or more days prior to the date set for
35 the commencement of the hearing.

36 6877. Public hearings for the purpose of investigating pilotage
37 rates shall be conducted in accordance with the Bagley-Keene
38 Open Meeting Act (Article 9 (commencing with Section 11120)
39 of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government
40 Code) and a full record shall be kept of all evidence offered.

- 1 6878. In preparing recommendations to the Legislature with
 2 relationship to pilotage rates, the board may require an independent
 3 audit or audits by a public accountant selected by the board. The
 4 audits required by the board shall cover pilotage operations for
 5 those years which the board may specify. In preparing the
 6 recommendations, the board shall also give consideration to other
 7 relevant factors, including, but not limited to, the following:
- 8 (a) The costs to the pilots, individually or jointly, of providing
 9 pilot service as required.
 - 10 (b) A net return to the pilot sufficient to attract and hold persons
 11 capable of performing this service with safety to the public and
 12 protection to the property of persons using the service; and the
 13 relationship of that income to any changes in cost-of-living indices.
 - 14 (c) Pilotage rates charged for comparable services rendered in
 15 other ports and harbors in the United States.
 - 16 (d) The methods of determining pilotage rates in other ports
 17 and harbors in the United States.
 - 18 (e) Economic factors affecting the local shipping industry,
 19 including prospective increases or decreases in income and labor
 20 costs.
 - 21 (f) Additional factors affecting income to pilots such as the
 22 volume of shipping traffic using pilotage, numbers of pilots
 23 available to perform services, income paid for comparable services,
 24 and other factors of related nature.
 - 25 (g) Changes in, or additions to, navigational and safety
 26 equipment necessary to insure protection of persons, ships, and
 27 waterways.

28
 29 Article 9. Pilotage Surcharges
 30

- 31 6880. (a) In addition to other fees for pilotage, there shall be
 32 a surcharge in an amount established by the board for each
 33 movement of a vessel using pilot services for each pilot trainee
 34 who is enrolled in the pilot trainee training program established
 35 by the board.
- 36 (b) By action of the board, the board may adjust the amount
 37 established pursuant to subdivision (a) as necessary to efficiently
 38 administer the pilot trainee training program.
- 39 6881. The moneys charged and collected each month from the
 40 pilot trainee surcharge pursuant to Section 6880 shall be paid to

1 the Pilot Trainee Fund established pursuant to Section 6882. The
2 moneys shall be used only to fund the pilot trainee training program
3 pursuant to Sections 6844 and 6883.

4 6882. (a) A special fund to be known as the Pilot Trainee Fund
5 is hereby created within the State Treasury. Notwithstanding
6 Section 13340 of the Government Code, the moneys in the fund
7 are continuously appropriated for carrying out the purposes
8 specified in Sections 6881. The fund shall receive all proceeds
9 from the surcharge authorized by Section 6880. The Treasurer
10 shall designate a depository to receive surcharge proceeds for
11 transmission to the State Treasury and for deposit in the Pilot
12 Trainee Fund.

13 (b) Except as provided by this chapter, moneys in the General
14 Fund or any other state fund shall not be transferred to the Pilot
15 Trainee Fund or otherwise used to support the board or to pay the
16 debts, obligations, or encumbrances of the board, its licensees or
17 trainees.

18 6883. (a) Expenses of the Pilot Trainee Fund shall include all
19 costs incurred by the board in the operation and administration of
20 the pilot trainee training program and all costs resulting from any
21 contracts entered into for the purchase or lease of goods and
22 services required by the board, including, but not limited to, the
23 costs of testing, test preparation, advertising and soliciting for
24 trainee applicants, trainee stipends, worker's compensation
25 insurance premiums, reimbursement of costs of services provided
26 to the board by other governmental entities, and for the costs for
27 any other goods and services necessary for effectuating the
28 purposes of training as determined by the board.

29 (b) Notwithstanding any other provision of law, the board shall
30 submit to the Department of Finance, the Joint Legislative Budget
31 Committee, the Assembly Committee on Budget, and the Senate
32 Committee on Budget and Fiscal Review, all of the following:

33 (1) In conjunction with submission of the board's quarterly
34 financial statements, a report comparing estimated administrative
35 costs to budgeted administrative costs for the previous fiscal year.
36 The reports shall be in sufficient detail that they may be used for
37 legislative review purposes and for sustaining a thorough ongoing
38 review of the expenditures of the board.

1 (2) No later than January 10 of each year a copy of the proposed
2 budget for the board for the following fiscal year that is included
3 in the Governor's Budget.

4 (3) No later than June 1 of each year a copy of the proposed
5 budget.

6 (4) No later than June 30 of each year, the final budget and
7 revenue projections approved by the board. The report shall include
8 any approved revision, and supporting documentation, to the June
9 1 proposed budget for the board.

10 6884. (a) In addition to other fees for pilotage, there shall be
11 a surcharge in an amount established by the board for each
12 movement of a vessel using pilot services for pilot and inland pilot
13 continuing education established by the board.

14 (b) By action of the board, the board may adjust the amount
15 established pursuant to subdivision (a) as necessary to efficiently
16 administer the pilot and inland pilot continuing education program.

17 6885. The moneys charged and collected each month from the
18 pilot and inland pilot continuing education surcharge pursuant to
19 Section 6884 shall be paid to the Pilot and Inland Pilot Continuing
20 Education Fund established pursuant to Section 6886. The moneys
21 shall be used only to fund the pilot and inland pilot continuing
22 education program pursuant to Sections 6844 and 6887.

23 6886. (a) A special fund to be known as the Pilot and Inland
24 Pilot Continuing Education Fund is hereby created within the State
25 Treasury. Notwithstanding Section 13340 of the Government Code,
26 the moneys in the fund are continuously appropriated for carrying
27 out the purposes specified in Section 6885. The fund shall receive
28 all proceeds from the surcharge authorized by Section 6884. The
29 Treasurer shall designate a depository to receive surcharge proceeds
30 for transmission to the State Treasury and for deposit in the Pilot
31 and Inland Pilot Continuing Education Fund.

32 (b) Except as provided by this chapter, moneys in the General
33 Fund or any other state fund shall not be transferred to the Pilot
34 and Inland Pilot Continuing Education Fund or otherwise used to
35 support the board or to pay the debts, obligations, or encumbrances
36 of the board, its licensees or trainees.

37 6887. (a) Expenses of the Pilot and Inland Pilot Continuing
38 Education Fund shall include all costs incurred by the board in the
39 operation and administration of the pilot and inland pilot continuing
40 education program and all costs resulting from any contracts

1 entered into for the purchase or lease of goods and services required
2 by the board, including, but not limited to, the reimbursement of
3 costs of services provided to the board by other governmental
4 entities, and for the costs for any other goods and services
5 necessary for effectuating the purposes of continuing education
6 as determined by the board.

7 (b) Notwithstanding any other provision of law, the board shall
8 submit to the Department of Finance, the Joint Legislative Budget
9 Committee, the Assembly Committee on Budget, and the Senate
10 Committee on Budget and Fiscal Review, all of the following:

11 (1) In conjunction with submission of the board's quarterly
12 financial statements, a report comparing estimated administrative
13 costs to budgeted administrative costs for the previous fiscal year.
14 The reports shall be in sufficient detail that they may be used for
15 legislative review purposes and for sustaining a thorough ongoing
16 review of the expenditures of the board.

17 (2) No later than January 10 of each year a copy of the proposed
18 budget for the board for the following fiscal year that is included
19 in the Governor's Budget.

20 (3) No later than June 1 of each year a copy of the board's
21 proposed budget.

22 (4) No later than June 30 of each year, the final budget and
23 revenue projections approved by the board. The report shall include
24 any approved revision, and supporting documentation, to the June
25 1 proposed budget.

26 6888. (a) The vessel shall pay a board operations surcharge,
27 the purpose of which is to fully compensate the board for its official
28 services, for the services of its staff, and for all its incidental
29 expenses. The amount of the surcharge shall not exceed 7.5 percent
30 of all pilotage fees charged by pilots and inland pilots, pursuant
31 to Sections 6870, 6870.5, and 6871, unless the board establishes,
32 with the approval of the Department of Finance, a lesser
33 percentage, not to exceed any percentage consistent with
34 subdivision (b) of this section. The surcharge shall be billed and
35 collected by the pilots and inland pilots.

36 (b) The board operations surcharge shall not represent a
37 percentage significantly more than that required to support the
38 board pursuant to subdivision (a) of this section in addition to the
39 maintenance of a reasonable reserve.

1 (c) The pilots and inland pilots shall pay to the board all
2 surcharges collected by them to the board monthly or at such later
3 time as the board may direct.

4 (d) The board shall quarterly review its ongoing and anticipated
5 expenses and adjust the surcharge to reflect any changes which
6 have occurred since the last adjustment.

7 6889. There shall be an incremental rate of additional mills
8 per high gross registered ton as is necessary and authorized by the
9 board to recover the pilots' costs of obtaining new pilot boats and
10 of funding design and engineering modifications for the purposes
11 of extending the service life of existing pilot boats, excluding costs
12 for repair or maintenance. The incremental mill rate charge
13 authorized by this section shall be identified as a pilot boat
14 surcharge on the pilots' invoices and separately accounted for in
15 the accounting required by Section 6827.6. Net proceeds from the
16 sale of existing pilot boats shall be used to reduce the debt on the
17 new pilot boats and any debt associated with the modification of
18 pilot boats under this section. The board may adjust a pilot boat
19 surcharge to reflect any associated operational savings resulting
20 from the modification of pilot boats under this section, including,
21 but not limited to, reduced repair and maintenance expenses.

22

23 Article 10. State Certified Pilotage

24

25 6890. (a) No person shall hold both a pilot license and an
26 inland pilot license concurrently.

27 (b) It is the intent of the Legislature to provide for a unified
28 system of state regulated pilotage for Monterey Bay and the Bays
29 of San Francisco, San Pablo, and Suisun.

30 (c) The Legislature finds and declares that unified pilotage will
31 be beneficial to the safety of people, vessels, and property using
32 those bays and tributaries.

33 (d) The Legislature further finds and declares that unified
34 systems of regulated pilotage are common to the ports of the world
35 and are most familiar to, and best able to serve, both foreign and
36 domestic vessels.

37 6891. (a) Each pilot license shall be valid for a period of one
38 year and shall be renewed upon application and successful
39 completion of the physical examination required by Section 6848.

1 (b) A pilot license shall not be renewed if the pilot possessing
2 the license does not actively pilot vessels for any consecutive
3 period of one year, unless the board determines the pilot is qualified
4 and makes one of the following findings:

5 (1) The pilot has presented satisfactory proof of medical
6 disability during that period.

7 (2) The board has granted the pilot a leave of absence without
8 pay during that period.

9 (3) The pilot has been serving as port agent under Section 6827.

10 (c) A pilot licensee shall at all times hold an active and proper
11 license to pilot vessels on the waters on which the pilot operates.

12 (d) The board may revoke or suspend the license of any pilot
13 who does not use proper equipment maintained exclusively for
14 pilotage or who operates on territorial waters not described in the
15 license. This subdivision shall not be construed to require the use
16 of a pilot boat in order to provide pilotage services for Monterey
17 Bay.

18 6892. (a) Each existing inland pilot license shall be valid for
19 a period of one year and may be renewed upon application and the
20 applicant's passing of the physical examination required in Section
21 6848.

22 (b) An existing inland pilot license shall not be renewed if the
23 inland pilot possessing the license does not actively pilot vessels
24 for any consecutive period of one year, unless the board determines
25 that the inland pilot is qualified and has presented satisfactory
26 proof of medical disability during that period.

27 (c) An inland pilot shall at all times hold an active and proper
28 license to pilot vessels on the waters on which the pilot operates.

29 (d) The board may revoke or suspend the license of any inland
30 pilot who does not use proper equipment or who operates on
31 territorial waters not described in the license. The suspension or
32 revocation of licenses under this section is governed by Article 6
33 (commencing with Section 6855).

34 SEC. 4. Division 5 (commencing with Section 1100) of the
35 Harbors and Navigation Code is repealed.

36 SEC. 5. By October 1, 2009, the Department of Finance shall
37 complete a comprehensive financial audit of the Board of Pilot
38 Commissioners for the Bays of San Francisco, San Pablo, Suisun,
39 and Monterey and by January 1, 2010, the department shall
40 complete a comprehensive performance audit of the board. Copies

- 1 of these audits shall be delivered to the board, the Legislature, and
- 2 made available to the public on or before these completion dates.

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